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In re Application of : DECISION GRANTING
Kawase et al : PETITION UNDER
Appl. No. 09/824,965 : 37 CFR 1.183
Filed: April 3, 2001 :
Attorney Docket NO. 12967-002001 :

This is a decision on the July 13, 2001, "PETITION TO ACCEPT SUBSTITUTE SPECIFICATION IN REISSUE APPLICATION." The petition is being treated, for reasons set forth below, as a petition under 37 CFR 1.183 for waiver of 37 CFR 1.125(d) and 37 CFR 1.173(a)(1).

The petition is before the Office of Patent Legal Administration of the United States Patent and Trademark Office.

The petition is granted.

A fee of \$130.00 has been charged to Deposit Account No. 06-1050 for the petition under 37 CFR 1.183, as authorized by the last sentence of the petition.

DECISION

37 CFR 1.125(d) prohibits the filing of a substitute specification in a reissue application, while the present petition requests entry of the substitute specification submitted with the petition. Accordingly, this petition is being considered as a petition under 37 CFR 1.183 for a waiver of 37 CFR 1.125(d).

37 CFR 1.173(a)(1) requires the filing of the specification in the form of "a copy of the printed patent, in double column format, each page on only one side of a single sheet of paper." The submitted substitute specification is not a copy of the printed patent, in double column format. Accordingly, this petition is also being considered as a petition under 37 CFR 1.183 for a waiver of 37 CFR 1.173(a)(1).

Petitioner requests that the substitute specification (which is not permitted by 37 CFR 1.125(d)) incorporating numerous Certificate of Correction changes be accepted in lieu of the specification (two-column format which is essentially a copy of the original patent) required by 37 CFR 1.173. If strict compliance with §§ 1.125(d) and 1.173 is required, the incorporation of the Certificate of Correction changes into the reissue-formatted specification would make reading and understanding of the specification extremely difficult and error-prone. Petitioner is thus, in effect, requesting waiver of the requirements of 37 CFR 1.125(d) and 37 CFR 1.173(a)(1) in order to introduce the numerous changes into the specification in a clean fashion. Petitioner has also provided a marked-up version of the specification as an aid to the examiner in identifying the Certificate of Correction changes.

In the present instance the presence of the substitute specification will make the specification much more easily readable than would a copy of the printed patent, in double column format, with numerous insertions. Thus, justice warrants a waiver of the rules in the instant application.

CONCLUSION

1. The petition under 37 CFR 1.183 is granted.
2. The substitute specification filed with the petition is accepted.
3. The reexamination file is being forwarded to the examiner via the Special Program Examiner of Technology Center 1700.
4. Telephone inquiries with regard to this decision should be directed to the undersigned at (703) 308-6710.



Kenneth M. Schor
Senior Legal Advisor
Office of Patent Legal Administration
Office of the Deputy Commissioner
for Patent Examining Policy

February 12, 2002
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